

2007 DRAFTING REQUEST

Assembly Amendment (AA-AB397)

Received: 11/05/2007

Received By: phurley

Wanted: As time permits

Identical to LRB:

For: Peggy Krusick (608) 266-1733

By/Representing:

This file may be shown to any legislator: NO

Drafter: phurley

May Contact:

Addl. Drafters:

Subject: Criminal Law - sentencing
Criminal Law - miscellaneous

Extra Copies:

Submit via email: YES

Requester's email: Rep.Krusick@legis.wisconsin.gov

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Harboring a felon

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
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/1	phurley 11/05/2007	jdye 11/05/2007	rschluet 11/06/2007	_____	cduerst 11/06/2007	cduerst 11/06/2007	

FE Sent For:

<END>

→ 01-16-2008
(11/1) ← see attached

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phurley

1 11/5/07
JLD

11/5/07
PB

FE Sent For:

<END>

2007 ASSEMBLY BILL 397

June 14, 2007 – Introduced by Representatives KRUSICK, PETROWSKI, A. OTT, BERCEAU, VAN ROY, STRACHOTA and HINES, cosponsored by Senators OLSEN, PLALE, A. LASEE, HARSDOFF, KEDZIE and ROESSLER. Referred to Committee on Criminal Justice.

- 1 **AN ACT to renumber and amend** 946.47 (1) and 946.47 (2); **to amend** 946.47
2 (title); and **to create** 946.47 (1m) (intro.), 946.47 (2m) and 946.47 (2r) of the
3 statutes; **relating to:** aiding a felon and providing penalties.

Analysis by the Legislative Reference Bureau

Current law prohibits a person from harboring or aiding a felon with intent to prevent the felon's apprehension. Current law also prohibits a person from destroying, altering, hiding, or disguising physical evidence or placing false evidence with intent to prevent the apprehension, prosecution, or conviction of a felon. A person who violates these prohibitions may be fined up to \$10,000 or sentenced to a term of imprisonment of up to three and one-half years (which, if the sentence is for more than one year, includes a term of confinement and a term of extended supervision) or both. Alternatively, as with nearly all other crimes, the court may place the person on probation in lieu of requiring the person to serve time in prison or jail. These prohibitions, however, do not apply to the felon or to his or her spouse, parents, grandparents, children, grandchildren, brothers, or sisters.

This bill requires that a person convicted of violating one of these prohibitions be sentenced to a term of imprisonment and be assessed a fine. Under the bill, the court may not place the person on probation. The bill also increases the maximum term of imprisonment for violating these prohibitions if the felon being assisted has committed: 1) a Class A, B, C, or D felony; 2) an unclassified felony that is punishable by a sentence of life imprisonment; or 3) an offense in another state that is punishable by imprisonment there for one year or more and that would, if committed in

ASSEMBLY BILL 397

Wisconsin, be a Class A, B, C, or D felony or be punishable by a sentence of life imprisonment. Under the bill, the maximum term of imprisonment in such a case is ten years and the maximum fine is \$25,000.

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 946.47 (title) of the statutes is amended to read:

2 **946.47 (title) ~~Harboring or aiding~~ Aiding felons.**

3 **SECTION 2.** 946.47 (1) of the statutes is renumbered 946.47 (1m) (a) and
4 amended to read:

5 946.47 (1m) (a) ~~Whoever does either~~ "Aid a felon" means any of the following
6 ~~is guilty of a Class I felony:~~

7 1. With intent to prevent the apprehension of a felon, ~~harbors~~ harbor, or aids
8 aid him or her; ~~or,~~

9 2. With intent to prevent the apprehension, prosecution, or conviction of a felon,
10 ~~destroys, alters, hides~~ destroy, alter, hide, or disguises disguise physical evidence, or
11 ~~places~~ place false evidence.

12 **SECTION 3.** 946.47 (1m) (intro.) of the statutes is created to read:

13 946.47 (1m) (intro.) In this section:

14 **SECTION 4.** 946.47 (2) of the statutes is renumbered 946.47 (1m) (b), and 946.47
15 (1m) (b) (intro.), as renumbered, is amended to read:

16 946.47 (1m) (b) (intro.) ~~As used in this section "felon"~~ "Felon" means either of
17 the following:

ASSEMBLY BILL 397

1 **SECTION 5.** 946.47 (2m) of the statutes is created to read:

2 946.47 (2m) Whoever aids a felon is guilty of the following:

3 (a) A Class G felony, if the offense committed by the felon being aided is, or if
4 committed in this state would be, a Class A, B, C, or D felony or an unclassified felony
5 that is punishable by a sentence of life imprisonment.

(b) A Class I felony, if the offense committed by the felon being aided is, or if committed in this state would be, a Class E, F, G, H, or I felony or an unclassified felony that is not punishable by a sentence of life imprisonment.

9 SECTION 6. 946.47 (2r) of the statutes is created to read:

10 946.47 (2r) Notwithstanding s. 939.50 (3) (h) and (i), a court sentencing a
11 person convicted under sub. (2m) shall impose both a fine and a term of
12 imprisonment. The court may not place the person on probation.

13 (END)

a Violation

Hurley, Peggy

From: Moran, Christian
Sent: Monday, November 05, 2007 10:32 AM
To: Hurley, Peggy
Cc: Sappenfield, Anne
Subject: amendment request: AB 397 (aiding a felon)

Hi Peggy,

2743

Could you please draft an amendment to AB 397 (aiding a felon) for a Criminal Justice Committee Exec on this Wednesday (11/7) at 9:30 a.m.

Rep. Kleefisch's office said we need to get it to them by Noon tomorrow.

We'd like the amendment to:

- Restore judicial discretion by removing the provision that a person convicted of aiding a felon must receive a mandatory fine and term of imprisonment.

- Limit the enhanced penalties to homicide, armed robbery, all sexual assault crimes and kidnapping. (Have we missed any other Class A through D felonies that involve violence or weapons? If so, we'd like to include those offenses as well).

Thanks for your help. Just call with any questions.

Christian
Peggy Krusick's office
6-1733

48
eliminate
(2)(L)?

ddl 327 (2)(L)
peth

no
take out
non-violent
A-Ds

Hurley, Peggy

From: Moran, Christian
Sent: Monday, November 05, 2007 3:23 PM
To: Hurley, Peggy
Subject: RE: amendment request: AB 397 (aiding a felon)

These seem fine to exclude.

In the interest of your time, does it make sense to just draft the amendment now and then tweak that later, if our ADA has any other suggestions?

Or would you prefer to wait to see what, if any, suggestions he has? Whatever works best for you.

-----Original Message-----

From: Hurley, Peggy
Sent: Monday, November 05, 2007 3:10 PM
To: Moran, Christian
Subject: RE: amendment request: AB 397 (aiding a felon)

Ok. Just let me know - you wouldn't want to be seen as soft on fish-swipers!

-----Original Message-----

From: Moran, Christian
Sent: Monday, November 05, 2007 2:59 PM
To: Hurley, Peggy
Subject: RE: amendment request: AB 397 (aiding a felon)

Thanks, Peggy. I'll take a look. I'm also waiting to hear back from an ADA in Milwaukee County who's been helping us with the bill. I'll keep you posted.

-----Original Message-----

From: Hurley, Peggy
Sent: Monday, November 05, 2007 2:13 PM
To: Moran, Christian
Subject: RE: amendment request: AB 397 (aiding a felon)

Hi Christian,

Here's an in-progress list of felonies A-D that you may want to exclude from the enhanced "harboring" penalty:

- * First degree reckless injury under s. 940.23 ✓
- * Causing the death, via abuse or neglect, of an adult at a group home under s. 940.23. This statute calls for a Class C felony for intentional or reckless abuse or neglect and a Class D felony for negligent abuse or neglect. ✓
- * A second offense of having body armor after being convicted of a prior felony is a Class D felony under s. 941.291 (3) ✓
- * Causing death to another by product tampering is a Class C felony under s. 941.327 (2)(b) 4. ✓
- * Arson, but am I correct in assuming you want that one included in the enhanced penalty? Sec. 943.02 (1) makes it a Class C to commit arson and cause damages. There is no element of causing injury or death, only property damage. ✓
- * A second offense of "theft of farm-raised fish" is a Class D felony under s. 943.74 (3) (b). I have to admit, this one made me laugh. ✓
- * Possession of child pornography is a Class D felony under s. 948.12 ✓
- * Causing the death of a child through neglect is a Class D felony under s. 948.21 ✓
- * Causing the death of a person by contributing to the delinquency of a minor is a Class D felony under s. 948.40 ✓
- * As you suspected, there are several drug crimes that are Class C and Class D felonies. The manufacture, distribution, or delivery (or possession with intent to manufacture,

deliver, or distribute) of the following drugs may be Class C or D felonies, depending on the amount of drug involved: cocaine or cocaine base, heroin, the general family of amphetamines, "certain other schedule I controlled substances and ketamine" - the statute actually uses this language and spells out the chemical properties of these drugs, flunitrazepam.

Please let me know your thoughts.

Peggy

-----Original Message-----

From: Moran, Christian

Sent: Monday, November 05, 2007 10:32 AM

To: Hurley, Peggy

Cc: Sappenfield, Anne

Subject: amendment request: AB 397 (aiding a felon)

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Thanks for your help. Just call with any questions.

Christian

Peggy Krusick's office

6-1733

jld

**ASSEMBLY AMENDMENT ,
TO 2007 ASSEMBLY BILL 397**

by noon 11-6

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 3, line 3: delete "A Class G" and substitute "Except as provided in (b),
3 a Class G".

4 **2.** Page 3, line 7: before "a Class E" insert "a violation of s. 940.23 (1), an offense
5 punishable under s. ~~941.285~~ ^{940.285} (2) (b), an offense punishable under s. 941.291 (3) (b),
6 an offense punishable under s. 941.327 (2)(b)4., a violation of s. 943.02, an offense
7 punishable under s. 943.74 (3) (b), an offense punishable under s. 948.12 (3) (a), a
8 violation of s. 948.21 that results in the death of a child, an offense punishable under
9 s. 948.40 (4) (a), a violation of chapter 961 that is a Class C or Class D felony".

10 **3.** Page 3, line 9: delete lines 9 to 12.

11

(END)

Barman, Mike

From: Rep.Huebsch
Sent: Wednesday, January 16, 2008 12:18 PM
To: *DOA Fiscal Estimates
Cc: Barman, Mike
Subject: Request for Supplemental Fiscal Estimate
Attachments: AB-397.pdf; AB397-AA1.pdf

Per Joint Rule 41 (3) (b), I am requesting a supplemental fiscal estimate on Assembly Amendment 1 to Assembly Bill 397 (attached).

Please contact Jodi Jensen (266-3387) in my office with any questions.

Thank you.

Mike Huebsch